THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 8382 of 2007

Dated: 23.04.2007

Between:

K. Ravi Shanker.

.....
PETITIONER

AND

The Depot Manager, A.P.S.R.T.C. Midhani Depot, Kanchanbagh, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.8382 of 2007

ORDER

Questioning the proceedings dated 06.05.2002 of the Regional Manager, and the consequential orders dated 17.05.2002 of the Divisional Manager, appointing the petitioner as fresh Conductor Grade-II by denying his past service of ten years as Conductor, the petitioner filed the present writ petition.

2. The petitioner is employed as a Conductor in the respondents-Corporation. He was issued a charge sheet, dated 12.12.2000 alleging that while conducting the bus he committed certain cash and ticket irregularities on 03.12.2000. The petitioner submitted his explanation to the said charges. Dissatisfied with the explanation, an enquiry was conducted into the charges, and the Enquiry Officer, who conducted the enquiry, submitted his report holding that the charges leveled against the petitioner are proved. Based on the said enquiry report, the 1st respondent dismissed the petitioner from service vide order dated 26.04.2001. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent, who rejected the same, by proceedings dated 16.07.2001. Against the said rejection orders, the petitioner filed a review petition before the 3rd respondent, who vide proceedings dated 06.05.2002, while setting aside the removal order passed by the 1st respondent, as confirmed by the 2nd respondent, ordered reinstatement of the petitioner into service as Conductor Grade-II afresh, and denied him past service of ten years as Conductor.

Assailing the said order, the petitioner filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

4. The learned counsel for the petitioner submitted that the 3rd respondent having set aside the order of removal passed by the 1st respondent, as confirmed by the 2nd respondent, ought to have ordered his reinstatement into service with all consequential benefits, and he committed an error in denying him the benefit of his past service and directing his reinstatement into service as Conductor Grade-II afresh. He, thus, prayed that the impugned order be set aside and the respondents be directed to reinstate the petitioner into service with all consequential benefits.

4. On the other hand, the learned Standing Counsel for respondent-Corporation submitted that the petitioner the charges leveled against the petitioner stood provide in the enquiry. Though based on the enquiry report, the 1st respondent passed order of removal, which was confirmed by the 2nd respondent, yet the 3rd respondent having regard to the fact that the petitioner has put in 10 years of service, to give him one more opportunity, has taken a lenient view, and ordered his reinstatement into service as Conductor Grade-II fresh, and denied him the benefit of past service, and no interference is called for therewith.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation and perused the award of the Labour Court.

6. The parameters and scope of judicial review of this Court

under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

7. The petitioner did not dispute the validity of the enquiry. In the enquiry, the charges leveled against the petitioner that he failed to issue tickets, failed to close the SR and that he violated the rule of issue and start, stood proved. Based on the said findings, the 1st respondent passed order of removal from service, which was confirmed by the 2nd respondent in appeal. In the review, the 3rd respondent, as is evident from the impugned order, though upheld the findings arrived at in the enquiry, as also the orders passed by the 1st respondent, as confirmed by the 2nd respondent, but however, having regard to the ten years of service put in by the petitioner, and he having not been involved earlier in any case, to give one more opportunity, has taken a lenient view, and ordered his reinstatement into service as Conductor Grade-II afresh with certain conditions, and denied him the benefit of past service and backwages.

8. It is not as if the guilty of the petitioner, as proved in the enquiry, was set aside by the 3rd respondent. Had the 3rd respondent, disagreed with the findings arrived at by the enquiry officer, and set aside the orders of the 1st and 2nd respondents,

then the petitioner would have been justified in contending that he should have been reinstated into service with all consequential benefits, but that is not the case on hand. The 3rd respondent, even though upheld the orders of the 1st and 2nd respondent, but has taken a lenient view and passed the impugned order, directing reinstatement of the petitioner into service as Conductor Grade-II afresh, which by no means can be said to be illegal or arbitrary, and no interference is called for therewith, and more so having regard to the judgment of the apex Court in **Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], wherein it was held that once a domestic Tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

9. For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 23.04.2007
sj

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[1] (2005) 3 SCC 254